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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,932	11/15/2005	Magnus Hallenstal	P16768-US1	2075
27045	7590	05/12/2009		
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024				
EXAMINER				
AFOLAB, MARK O				
ART UNIT		PAPER NUMBER		
2454				
MAIL DATE		DELIVERY MODE		
05/12/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/521,932

**Applicant(s)**

HALLENSTAL ET AL.

**Examiner**

MARK O. AFOLABI

**Art Unit**

2454

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Nathan J. Flynn/  
Supervisory Patent Examiner, Art Unit 2454

/MARK O. AFOLABI/  
Examiner, Art Unit 2454

Continuation of 11. does NOT place the application in condition for allowance because: The examiner maintains the rejections of claims 11-18 and maintains that the combination of applied art meets the claimed limitations (See MPEP 2111 ). In this case, the combined applied art (Scholtens et al. (US 7,054,273) (Scholtens hereafter) and Mimura et al. (US 2001/0021176 A1 ) (Mimura hereafter) ) clearly meets the limitations, to address this limitation few areas in the limitations as regards to applicant's argument will be recited below for clarity.

Scholtens teaches,

- establishing a session between the originating gateway and the destination gateway (e.g., telephone switching equipment to connect the originating and terminating ends of a telephone call using SS7 messages...The exchange of call control signals allows the gateways 100A, 100B to As shown in FIG. 1, a continuous call path can be to establish a connection through the ATM network 101, col. 4, lines 3-12 and item 270 of Fig. 3B);
- sending a seizure signal from the originating gateway to the destination gateway, said seizure signal indicating that the end to end test is to be performed (e.g., item 230 of Fig. 3A, "Call controller sends a connection control message (createconn) to the origination gateway to initiate a connection through the ATM network and to indicate that the sending side of a continuity check is requested"), which interface to use for the test, and a desired number of call handling resources to be used for the test (e.g., item 210 of Fig. 3A, "User at the originating end dials a telephone number");
- receiving a resource ready acknowledgment signal in the originating gateway from the destination gateway, said acknowledgment signal indicating that the desired number of resources are available (e.g., item 250 of Fig. 3A, "Gateway returns an acknowledgement message (createack) that includes a connection descriptor including information that uniquely identifies the call" and col. 5, lines 10-30, particularly lines 10-16);

Scholtens does not explicitly teach sending a plurality of test data packets with the data for the test to the destination gateway and destination address fields in the packet headers of the test data packets, while sending other data traffic to defined destinations and calculating quality statistics for the received data packets by the originating gateway.

However, Mimura teaches sending a plurality of test data packets with the data for the test to the destination gateway (e.g., the number of packets received and the count of bytes received on a switch that receive packets from the sending-end terminal as well as the number of packets transmitted and the count of bytes transmitted on a switch that transmits packets to the receiving-end terminal, [0014], Mimura); and destination address fields in the packet headers of the test data packets, while sending other data traffic to defined destinations (e.g., a communication flow to which the IP packet belongs is identified by the match between the data, for example, source and destination IP addresses specified in the packet header, [0008], Mimura);

Rationale:

Thus, It would have been obvious to one of ordinary skill in the art at the time invention was made, given the suggestions of Scholtens and Mimura to show that address fields in the packet headers of the test data packets and quality statistics for the received data packets in a network would lead to a great performance results in the network. One would be motivated to utilize a user data packets being transmitted between the terminals for carrying the statistics data obtained by monitoring, as indicated by the header of the user data including this data, is exactly the same as the route for carrying other user data packets of the same communication flow and quality statistics or service quality for packet monitoring in allowing noticeable advantage for assuring that time sequence of the statistics data obtained by monitoring is traceable in any end to end network communication [0053 and 0044], Mimura.

Scholtens teaches looping back the received test data packets from the destination gateway to the originating gateway by exchanging source (e.g., the gateway 100B [i.e., destination gateway] also sets UP 275 a continuity check loop between the incoming and outgoing packet streams 128, 130 associated with the packet network connection. FIG. 5 shows the loopback provided in the TDM-domain of the gateway 100B...the loopback can be provided in either the TDM-domain or the packet-domain, col. 5, lines 44-55).

This cited portion, "the destination gateway returning a resource ready acknowledgment signal to the originating gateway prior to the originating gateway configuring the reserved call resources for the test" is not recited in the claim. Hence, rejections of claims 11-18 still stand.